

REMARKS

I. Introduction

In response to the Office Action dated February 3, 2009, claims 1, 19 and 37 have been amended. Claims 1, 3-9, 11-19, 21-27, 29-37, 39-45 and 47-54 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Prior Art Rejections

In section (8) of the Office Action, claims 1-5, 7, 10, 19-23, 25, 28, 37-41, 43 and 46 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 7,082,411 (Johnson) in view of U.S. Patent No. 5,812,988 (Sandretto). In section (9) of the Office Action, claims 6, 24 and 42 were rejected under 35 U.S.C. §103(a) as being obvious over Johnson in view of Sandretto and further in view of U.S. Patent No. 5,852,811 (Atkins). In section (10) of the Office Action, claims 8-9, 11-17, 26-27, 29-35, 44-45 and 47-53 were rejected under 35 U.S.C. §103(a) as being obvious over Johnson in view of Sandretto and further in view of “Fundamentals of Financial Management” (Kuhlemeyer).

However, in section (11) of the Office Action, claims 18, 26 and 54 were indicated as being allowable if rewritten in independent form to include the base claim and any intervening claims, and if rewritten to overcome the rejections under 35 U.S.C. §112, second paragraph.

Applicant’s attorney acknowledges the indication of allowable claims, but respectfully traverses the rejections in view of the amendments above and the arguments below. Specifically, Applicant’s attorney submits that the combination of Johnson and Sandretto does not teach or suggest all of the various elements of Applicant’s amended independent claims.

Applicants’ claims recite a new variation for NPV calculations, in their use of NPV attrition rules. Specifically, the NPV attrition rules are novel and nonobvious improvements to prior art NPV calculations.

Both Johnson and Sandretto, for example, describe the well-known NPV calculation. However, neither reference describes the categories of distinctly different NPV attrition rules now listed in independent claims 1, 19 and 37, and defined in detail in dependent claims 11-18, 29-36 and 47-54 (including dependent claims 18, 36 and 54, which are indicated as being allowable).

Moreover, the assertion by the Office Action that attrition rates are discount factors is incorrect. A discount factor is a rate used to discount future cash flows to their present values, i.e., the rate of return that could be earned on an investment in the financial markets with similar risk, but is not a rate at which a cash flow will be decreased. Clearly, discount factors and attrition rates are not the same values.

With this in mind, Applicant's attorney submits that the Johnson and Sandretto references do not teach or suggest the limitations found in Applicant's independent claims. Indeed, the Office Action admits that Johnson and Sandretto do not teach or suggest the limitations found in Applicant's dependent claims 11-18, 29-36 and 47-54, but nonetheless cites Kuhlemeyer as teaching these limitations.

However, Kuhlemeyer does not specifically describe the categories of distinctly different NPV attrition rules now listed in independent claims 1, 19 and 37, and defined in detail in dependent claims 11-18, 29-36 and 47-54. Instead, Kuhlemeyer merely describes the use of different cash flows in different forecast periods. However, the different cash flows of Kuhlemeyer merely comprise examples of specific amounts, and do not comprise Applicant's NPV attrition rules. Consequently, Applicant's claim limitations would not have been obvious to one skilled in the art at the time the invention was made.

The remaining Atkins reference fails to overcome these deficiencies of Johnson, Sandretto and Kuhlemeyer. Moreover, this is conceded by the Office Action because the Atkins reference was cited only for teaching limitations of Applicant's dependent claims 6, 24 and 42, which recite that the selected amounts are forecast amounts.

Consequently, the various elements of Applicant's claimed invention together provide operational advantages over Johnson, Sandretto, Atkins, and Kuhlemeyer. In addition, Applicant's invention solves problems not recognized by Johnson, Sandretto, Atkins, and Kuhlemeyer.

Thus, Applicant's attorney submits that independent claims 1, 19, and 37 are allowable over Johnson, Sandretto, Atkins, and Kuhlemeyer. Further, dependent claims 3-9, 11-18, 21-27, 29-36, 39-45 and 47-54 are submitted to be allowable over Johnson, Sandretto, Atkins, and Kuhlemeyer in the same manner, because they are dependent on independent claims 1, 19, and 37, respectively, and thus contain all the limitations of the independent claims. In addition,

dependent claims 3-9, 11-18, 21-27, 29-36, 39-45 and 47-54 recite additional novel elements not shown by Johnson, Sandretto, Atkins, and Kuhlemeyer.

III. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited.

Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

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